



May 21, 2004

Allison Ray, Environmental Coordinator
WSDOT – Alaskan Way Viaduct
WSDOT mailstop NB82-230
999 Third Avenue, Suite 2424
Seattle, WA 98104

Subject: Alaskan Way Viaduct and Seawall Replacement Project - Comments

Dear Allison,

Thank you for the opportunity to review the Washington State Department of Transportation's SR-99 Alaskan Way Viaduct and Seawall Replacement Project Draft Environmental Impact Statement. Portions of the project appear to be located on state-owned aquatic lands. As the proprietary manager of the submerged lands and biological communities affected by the project alternatives, we reserve the right to comment on any and all future permits.

In making specific comments on the proposal, it is helpful to understand the land management role of the Washington State Department of Natural Resources (DNR):

The DNR's management authority derives from the State's Constitution (Articles XV, XVII, XXVII), Revised Code (RCW 79.01, 79.90 to 79.100) and Administrative Code (WAC 332-30). As proprietary manager of state-owned aquatic lands, the DNR has been directed to manage the lands "...for the benefit of the public." in a manner that provides "...a balance of public benefits¹ for all citizens of the state..." that includes:

- (1) Encouraging direct public use and access;
- (2) Fostering water-dependant uses²;
- (3) Ensuring environmental protection; and
- (4) Utilizing renewable resources." (RCW 79.90.455).

In these ways, the DNR is responsible for making land use decisions on state owned aquatic lands (SOAL).

¹ WAC 332-30-106 defines public benefit as "...that all of the citizens of the state may derive a direct benefit from departmental actions..."

² Water dependent uses are those uses that "...cannot logically exist in any location but on the water." Examples include water-borne commerce; terminals; watercraft construction, repair or maintenance; moorage; aquaculture; and log booming. (RCW 79.90.465)

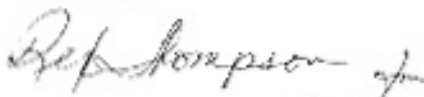
In the specific case of the viaduct/seawall proposal:

- The DNR needs to consider the various proposed uses on SOAL and, where appropriate, grant leases, easements or other land use licenses to the proponent(s). Rental values and/or other compensatory values (such as mitigation) would be charged in consideration for the proposed uses.
- Any authorization(s) (including authorization of mitigation occurring on SOAL) and/or values charged for land use would be assessed in a separate, proprietary decision-making process (that is, separate from the environmental impact assessment process). This is an important distinction, in that, easements and leases for the use of SOAL need to be considered in a process very similar to acquiring property/easement rights across any other lands.

As soon as a preferred alternative for the use of SOAL is determined, an application for the use of SOAL can be filed through our South Puget Sound Region office in Enumclaw (950 Farman Ave. N., Enumclaw, WA 98022). Please contact the office at (360) 825-1631 (Aquatics Section) to obtain an application.

This concludes the department's comments at this time. Please include this office for future comment. Again, thank you for the opportunity to comment on this proposal.

Sincerely,



Rex Thompson, District Manager
Shoreline District Aquatics Region

c: Hugo Flores
Sharon Holley
Dave Kiehle
Mark Mauren
Fran McNair
Loren Stern